Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

CLEM C MARTIN DC
207 EAST 6TH STREET
BONHAM TX 75418

Respondent Name
PROTECTIVE INSURANCE CO

Carrier's Austin Representative Box
Box Number 17

MFDR Tracking Number
M4-09-5490-01

MFDR Date Received
JANUARY 16, 2009

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Requestor withdraws request for Medical Review Division (MRD) adjudication of CPT service codes 92531 and 92532 – Nystagmic testing. CMS (Medicare) Fee Guidelines designate these CPT Codes a Relative Value Unite (RVU) score of '0' with 'status code B' indicating these services are bundled into other services. Request for MRD adjudication of carrier incorrect bundling Evaluation and Management codes 99213 and 99214 with Current Procedure Therapy code 98940-3 spinal manipulation remains before the Division."

Amount in Dispute: $875.69

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "this Requestor has billed for several services each day that have been unbundled from other services in order to obtain additional reimbursement to which they are not entitled pursuant to the fee guidelines. Therefore, no monies are owed."

Response Submitted by: Downs Stanford, P.C.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 11, 2008 June 27, 2008 August 11, 2008	CPT Code 99213-25	$61.98/each	$185.94
July 24, 2008	CPT Code 99243	$193.00	$0.00
January 21, 2008 April 7, 2008 May 14, 2008 October 6, 2008	CPT Code 99214-25	$97.01/each	$388.04
April 7, 2008	CPT Code 99354	$106.00	$0.00

April 11, 2008	CPT Code 94760	$2.71	$0.00
TOTAL		$875.69	$573.98

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.202, effective August 1, 2003, sets the reimbursement guidelines for the disputed services.
3. 28 Texas Administrative Code §134.203 set out the fee guidelines for the reimbursement of workers' compensation professional medical services provided on or after March 1, 2008.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:

   Explanation of benefits dated

   - 25-Separate E&M Service, Same Physician
   - B13-Payment for service may have been previously paid.
   - B15-Procedure/Service is not paid separately.
   - 125-Denial/Reduction due to submission/billing error.
   - R25-Procedure billing restricted/see state regulations.
   - 113-Office Notes needed to review charges.
   - 16-No all info. needed for adjudication was supplied.
   - 50-Service not deemed 'Medically Necessary' by payer.
   - T13-Med necessity denial. Appeal within 11 mos of DOS
   - W1-Workers' compensation state fee schedule adj.
   - W4-No additional payment allowed after review.
   - R01-Duplicate Billing.

Issues

1. Is CPT code 97460 unbundled from another service billed on disputed dates of service?
2. Is the requestor entitled to reimbursement for CPT code 99213-25?
3. Is the requestor entitled to reimbursement for CPT code 99214-25?
4. Is the requestor entitled to reimbursement for CPT code 99243?
5. Is the requestor entitled to reimbursement for CPT code 99354?

Findings

1. CPT code 94760 is defined as "Noninvasive ear or pulse oximetry for oxygen saturation; single determination." Per 28 Texas Administrative Code §134.203(b), CPT code 94760 is included in the E&M service and should not be billed separately. On the disputed dates listed above, the provider billed for both an E&M code and 94760; therefore, reimbursement is not recommended.
2. CPT code 99213-25 is defined as "Office or other outpatient visit for the evaluation and management of an established patient, which requires at least 2 of these 3 key components: An expanded problem focused history; An expanded problem focused examination; Medical decision making of low complexity. Counseling and coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of low to moderate severity. Physicians typically spend 15 minutes face-to-face with the patient and/or family." On the disputed dates of service the requestor also billed for a chiropractic manipulation. Per 28 Texas Administrative Code §134.203(b), billing for a chiropractic manipulative treatment in conjunction with an Evaluation and

Management service may be reported separately using modifier "-25" if the patient's condition requires a significant separately identifiable E/M service. The submitted documentation supports billing of CPT code 99213-25. The Requestor correctly billed for the office visit using modifier "-25."

Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.
(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is $52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is $66.32.

(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of $50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the $51.90 (with the exception of surgery) Division conversion factor in 2007."

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

The 52.83 DWC conversion factor for this service is 68.47.

The Medicare Conversion Factor is 38.087

Review of Box 32 on the CMS-1500 the services were rendered in zip code 75418, which is located in Bonham, Texas; therefore, the Medicare participating amount will be based on "Rest of Texas."

The Medicare participating amount for code 99213 in Bonham, Texas is $56.34.

Using the above formula, the MAR is $78.15. The requestor is seeking $61.98. This amount multiplied by the three dates is $185.94.

3. CPT code 99214 is defined as "Office or other outpatient visit for the evaluation and management of an established patient, which requires at least 2 of these 3 key components: A detailed history; A detailed examination; Medical decision making of moderate complexity. Counseling and/or coordination of care with other physicians, other qualified health care professionals, or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate to high severity. Typically, 25 minutes are spent face-to-face with the patient and/or family." On the disputed dates of service the requestor also billed for a chiropractic manipulation. Per 28 Texas Administrative Code § 134.202(b) and 28 Texas Administrative Code §134.203(b), billing for a chiropractic manipulative treatment in conjunction with an Evaluation and Management service may be reported separately using modifier "-25" if the patient's condition requires a significant separately identifiable E/M service. The submitted documentation supports billing of CPT code 99213-25. The Requestor correctly billed for the office visit using modifier "-25."
    - For date of service, January 21, 2008, the MAR is determined per 28 Texas Administrative Code § 134.202(c). The MAR for CPT code 99214-25 in Fannin County (Rest of Texas) is $106.11 ($84.89 X 125%). The Requestor is seeking a lesser amount of $97.01; this amount is recommended for reimbursement.
    - For dates of service April 11, 2008, May 14, 2008 and October 6, 2008, the MAR is determined per 28 Texas Administrative Code § 134.203(c). As stated above in #2, the MAR is determined by the formula (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

      The Medicare participating amount is $84.89. Using the above formula, the MAR is $117.75. The requestor is seeking $97.01; therefore, this amount multiplied by the three dates of service is $291.03.
4. On July 24, 2008, the requestor billed CPT code 99243-"Office consultation for a new or established patient, which requires these 3 key components: A detailed history; A detailed examination; and Medical decision making of low complexity. Counseling and/or coordination of care with other physicians, other qualified health care professionals, or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate severity. Typically, 40 minutes are spent face-to-face with the patient and/or family." The respondent denied reimbursement based upon reason code "16." The submitted documentation does not support that the requestor performed the consultation. As a result, reimbursement cannot be recommended.

5. On April 7, 2008, the requestor billed CPT code 99354 for "Prolonged service in the office or other outpatient setting requiring direct patient contact beyond the usual service; first hour (List separately in addition to code for office or other outpatient Evaluation and Management service)." The respondent denied reimbursement based upon reason codes "125, and R25."

   On the disputed date of service, the requestor also billed for an E&M code, 99214. Based upon the code description for code 99214, the physician typically spends 25 minutes face-to-face. A review of the submitted report indicates claimant was "in 7:50 and out 8:33" for a total of 43 minutes face-to face. The requestor billed CPT code 99354 for the additional 18 minutes spent face-to-face.

   According to the 2008 CPT code book instructions for billing prolonged services states "Prolonged service of less than 30 minutes total duration on a given date is not separately reported because the work involved is included in the total work of the evaluation and management codes." Because the documentation does not support more than 30 minutes face-to-face with patient for CPT code 99354, reimbursement is not recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $573.98.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $573.98 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	10/19/2013 Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.